

**18.000 PERSONNEL RECORDS**

**18.100 Definition and Documents to be Copied to Office of Court Management**

- A. By statute (G.L. c.149, § 52C), a “personnel record” is defined as “a record kept by an employer that identifies an employee, to the extent that the record is used or has been used, or may affect, or be used relative to that employee’s qualifications for employment, promotion, transfer, additional compensation or disciplinary action.” Such record must include “the name, address, date of birth, job title and description; rate of pay and any other compensation paid to the employee; starting date of employment; the job application of the employee; resumes or other forms of employment inquiry submitted to the employer in response to his advertisement by the employee; all employee performance evaluations, including but not limited to, employee evaluation documents; written warnings of substandard performance; lists of probationary periods; waivers signed by the employee; copies of dated termination notices; any other documents relating to disciplinary action regarding the employee.” The personnel record must be maintained “in typewritten or printed form or may be handwritten in indelible ink.”
- B. The official personnel records of the Trial Court are the property of the Human Resources Department, although those records may be in the physical custody of the Department Head.
- C. Copies of personnel record documents involving the following transactions must be forwarded to the Human Resources Department and, in the case of probation officers, also to the Office of the Commissioner of Probation. The originals must be retained by the Department Head in the employee’s personnel file:
  - 1. hiring;
  - 2. promotions;
  - 3. status change;
  - 4. reclassifications;
  - 5. salary change;
  - 6. terminations;
  - 7. discipline;
  - 8. letters of complaint or commendation; and
  - 9. requests for a leave of absence.

## **18.200 Notification to Employee of Documents Placed in Personnel Record**

G.L. c.149, § 52C also requires that an employee be notified “within 10 days of the employer placing in the employee’s personnel record any information to the extent that the information is, has been used or may be used, to negatively affect the employee’s qualification for employment, promotion, transfer, additional compensation or the possibility that the employee will be subject to disciplinary action.”

In addition, the employee should be given a copy of such material, and notified and given a copy of favorable or complimentary letters, notes or other documents.

## **18.300 Maintenance and Security of Personnel Records**

### **A. Department Head Responsibility**

The Department Head is responsible for maintaining personnel records, consistent with the statutory definition in Section 18.100, above.

All medical information pertaining to an employee must be kept in a file separate from the employee’s primary personnel file.

Personnel records are confidential and must be maintained in a secured location, preferably in a locked cabinet, and access to personnel records must be limited to the Department Head and designated personnel with a business need for access to the files. The employee’s Departmental Chief Justice and Deputy Court Administrator, the Jury Commissioner and Commissioner of Probation (where appropriate), the Chief Justice of the Trial Court, and the Court Administrator (or their designees) shall have access to employee’s personnel records.

### **B. Employee Access to Personnel Records**

G.L. c.149, § 52C provides that employees shall be given an opportunity to review their personnel record within 5 business days of a written request to do so, and shall be given a copy of the personnel record within 5 business days of a written request of a copy. Except for the notification and review described in Section 18.200, an employee has no statutory right to review their personnel record on more than 2 separate occasions in a calendar year. Any requested review in excess of those occasions is at the discretion of the Department Head. Upon a written release, an employee may authorize a designated representative to exercise these rights.

**18.400 Employee Rights to Correct or Explain Personnel Record Material**

G.L. c.149, § 52C provides that “if there is a disagreement with any information contained in a personnel record, removal or correction of such information may be mutually agreed upon by the employer and the employee. If an agreement is not reached, the employee may submit a written statement explaining the employee’s position, which shall thereupon be contained therein and shall become a part of such employee’s personnel record. The statement shall be included when said information is transmitted to a third party as long as the original information is retained as part of the file.”